

EXHIBIT 1

INTRODUCTION

This case arose from a Franchise Tax Board (“FTB”) audit of the Bill Simon for Governor committee (“Respondent Committee”) for the period of January 1, 2001, through December 31, 2002. Respondent William E. Simon, Jr., also known as Bill Simon (“Respondent Simon”), was an unsuccessful candidate for Governor in 2002. Respondent Committee was controlled by Respondent Simon.

At all times relevant to this matter, Respondent William R. Turner, C.P.A. (“Respondent Treasurer”) served as Respondent Committee’s treasurer. During the period covered by the audit, Respondent Committee reported receiving contributions of \$36,364,669 and making expenditures totaling \$36,469,876.

Enforcement Division staff confirmed FTB’s findings that the Respondents substantially complied with the reporting requirements of the Political Reform Act¹, but that Respondents violated the Act’s requirements for: (1) filing late contribution reports, (2) disclosing subvendor information, (3) disclosing accrued expenses, (4) sending major donor notifications to contributors of \$5,000 or more, and (5) disclosing the lender of loans received by Respondent Committee and the entity that pledged stock as security for the line of credit from which the loans were made.

For purposes of settlement, the violations of the Political Reform Act can be stated as follows:

LATE CONTRIBUTION REPORTS

- COUNT 1:** On or about February 20, 2002, Respondents failed to disclose a \$1,000 late contribution on a properly filed late contribution report, in violation of Section 84203, subdivision (a).
- COUNT 2:** On or about October 23, 2002, Respondents failed to disclose two late contributions totaling \$1,600 on a properly filed late contribution report, in violation of Section 84203, subdivision (a).
- COUNT 3:** On or about October 25, 2002, Respondents failed to disclose three late contributions totaling \$6,600 on a properly filed late contribution report, in violation of Section 84203, subdivision (a).

¹ The Political Reform Act is contained in Government Code sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in sections 18109 through 18997 of title 2 of the California Code of Regulations. All regulatory references are to title 2, division 6 of the California Code of Regulations, unless otherwise indicated.

- COUNT 4: On or about October 27, 2002, Respondents failed to disclose two late contributions totaling \$1,600 on a properly filed late contribution report, in violation of Section 84203, subdivision (a).
- COUNT 5: On or about October 29, 2002, Respondents failed to disclose six late contributions totaling \$19,903.80 on a properly filed late contribution report, in violation of Section 84203, subdivision (a).
- COUNT 6: On or about October 31, 2002, Respondents failed to disclose three late contributions totaling \$3,358.76 on a properly filed late contribution report, in violation of Section 84203, subdivision (a).
- COUNT 7: On or about November 1, 2002, Respondents failed to disclose five late contributions totaling \$21,061.70 on a properly filed late contribution report, in violation of Section 84203, subdivision (a).
- COUNT 8: On or about November 2, 2002, Respondents failed to disclose two late contributions totaling \$1,600 on a properly filed late contribution report, in violation of Section 84203, subdivision (a).
- COUNT 9: On or about November 4, 2002, Respondents failed to disclose two late contributions totaling \$1,600 on a properly filed late contribution report, in violation of Section 84203, subdivision (a).

SUBVENDOR PAYMENTS

- COUNT 10: Respondents failed to report required subvendor information for payments totaling approximately \$196,626 made on behalf of Respondent Committee to KABC-TV, on a semi-annual campaign statement filed on July 31, 2002, for the reporting period of February 17, 2002, through June 30, 2002, in violation of Sections 84211, subdivision (k) and 84303.
- COUNT 11: Respondents failed to report required subvendor information for payments totaling approximately \$117,623 made on behalf of Respondent Committee to KCBS-TV, on a semi-annual campaign statement filed on July 31, 2002, for the reporting period of February 17, 2002, through June 30, 2002, in violation of Sections 84211, subdivision (k) and 84303.
- COUNT 12: Respondents failed to report required subvendor information for payments totaling approximately \$121,066 made on behalf of Respondent Committee to KGO-TV, on a semi-annual campaign statement filed on July 31, 2002, for the reporting period of February 17, 2002, through June 30, 2002, in violation of Sections 84211, subdivision (k) and 84303.

- COUNT 13: Respondents failed to report required subvendor information for payments totaling approximately \$261,163 made on behalf of Respondent Committee to KNBC-TV, on a semi-annual campaign statement filed on July 31, 2002, for the reporting period of February 17, 2002, through June 30, 2002, in violation of Sections 84211, subdivision (k) and 84303.
- COUNT 14: Respondents failed to report required subvendor information for payments totaling approximately \$137,868 made on behalf of Respondent Committee to Spectrum Film Productions, on a semi-annual campaign statement filed on July 31, 2002, for the reporting period of February 17, 2002, through June 30, 2002, in violation of Sections 84211, subdivision (k) and 84303.
- COUNT 15: Respondents failed to report required subvendor information for payments totaling approximately \$429,356 made on behalf of Respondent Committee to AT & T Media, on a pre-election campaign statement filed on October 7, 2002, for the reporting period July 1, 2002, through September 30, 2002, in violation of Sections 84211, subdivision (k) and 84303.
- COUNT 16: Respondents failed to report required subvendor information for payments totaling approximately \$368,790 made on behalf of Respondent Committee to Adlink, on a pre-election campaign statement filed on October 7, 2002, for the reporting period July 1, 2002, through September 30, 2002, in violation of Sections 84211, subdivision (k) and 84303.
- COUNT 17: Respondents failed to report required subvendor information for payments totaling approximately \$257,040 made on behalf of Respondent Committee to KABC-TV, on a pre-election campaign statement filed on October 7, 2002, for the reporting period July 1, 2002, through September 30, 2002, in violation of Sections 84211, subdivision (k) and 84303.
- COUNT 18: Respondents failed to report required subvendor information for payments totaling approximately \$111,371 made on behalf of Respondent Committee to KCBS-TV, on a pre-election campaign statement filed on October 7, 2002, for the reporting period July 1, 2002, through September 30, 2002, in violation of Sections 84211, subdivision (k) and 84303.
- COUNT 19: Respondents failed to report required subvendor information for payments totaling approximately \$124,440 made on behalf of Respondent Committee to KCRA-TV, on a pre-election campaign statement filed on October 7, 2002, for the reporting period July 1, 2002, through September 30, 2002, in violation of Sections 84211, subdivision (k) and 84303.

COUNT 20: Respondents failed to report required subvendor information for payments totaling approximately \$202,572 made on behalf of Respondent Committee to KNBC-TV, on a pre-election campaign statement filed on October 7, 2002, for the reporting period July 1, 2002, through September 30, 2002, in violation of Sections 84211, subdivision (k) and 84303.

COUNT 21: Respondents failed to report required subvendor information for payments totaling approximately \$102,595 made on behalf of Respondent Committee to KNTV-TV, on a pre-election campaign statement filed on October 7, 2002, for the reporting period July 1, 2002, through September 30, 2002, in violation of Sections 84211, subdivision (k) and 84303.

COUNT 22: Respondents failed to report required subvendor information for payments totaling approximately \$107,708 made on behalf of Respondent Committee to KPIX-TV, on a pre-election campaign statement filed on October 7, 2002, for the reporting period July 1, 2002, through September 30, 2002, in violation of Sections 84211, subdivision (k) and 84303.

COUNT 23: Respondents failed to report required subvendor information for payments totaling approximately \$266,781 made on behalf of Respondent Committee to National Cable, on a pre-election campaign statement filed on October 7, 2002, for the reporting period July 1, 2002, through September 30, 2002, in violation of Sections 84211, subdivision (k) and 84303.

ACCRUED EXPENSES

COUNT 24: Respondents failed to disclose accrued expenses totaling approximately \$8,899 on a pre-election campaign statement filed on October 10, 2001, for the reporting period July 1, 2001, through September 30, 2001, in violation of Section 84211, subdivisions (i) and (k).

COUNT 25: Respondents failed to disclose accrued expenses totaling approximately \$64,415 on a semi-annual campaign statement filed on January 10, 2002, for the reporting period of October 1, 2001, through December 31, 2001, in violation of Section 84211, subdivisions (i) and (k).

COUNT 26: Respondents failed to disclose accrued expenses totaling approximately \$25,048 on a pre-election campaign statement filed on January 24, 2002, for the reporting period of January 1, 2002, through January 19, 2002, in violation of Section 84211, subdivisions (i) and (k).

COUNT 27: Respondents failed to disclose accrued expenses totaling approximately \$241,910 on a pre-election campaign statement filed on February 22,

2002, for the reporting period of January 20, 2002, through February 16, 2002, in violation of Section 84211, subdivisions (i) and (k).

COUNT 28: Respondents failed to timely disclose accrued expenses totaling approximately \$122,200 on a pre-election statement filed on February 22, 2002, for the reporting period of January 20, 2002, through February 16, 2002, in violation of Section 84211, subdivisions (i) and (k).

COUNT 29: Respondents failed to disclose accrued expenses totaling approximately \$86,887 on a semi-annual campaign statement filed on July 31, 2002, for the reporting period February 17, 2002, through June 30, 2002, in violation of Section 84211, subdivisions (i) and (k).

COUNT 30: Respondents failed to disclose accrued expenses totaling approximately \$55,455 on a pre-election campaign statement filed on October 7, 2002, for the reporting period July 1, 2002, through September 30, 2002, in violation of Section 84211, subdivisions (i) and (k).

COUNT 31: Respondents failed to disclose accrued expenses totaling approximately \$102,634 on a pre-election campaign statement filed on October 24, 2002, for the reporting period of October 1, 2002, through October 19, 2002, in violation of Section 84211, subdivisions (i) and (k).

COUNT 32: Respondents failed to timely disclose accrued expenses totaling approximately \$377,674 on a pre-election statement filed on October 24, 2002, for the reporting period of October 1, 2002, through October 19, 2002, in violation of Section 84211, subdivisions (i) and (k).

COUNT 33: Respondents failed to disclose accrued expenses totaling approximately \$5,836 on a semi-annual campaign statement filed on January 31, 2003, for the reporting period October 20, 2002, through December 31, 2002, in violation of Section 84211, subdivisions (i) and (k).

MAJOR DONOR NOTIFICATIONS

COUNT 34: Respondents failed to timely send required notification to a contributor who contributed \$5,000 during the reporting period of October 1, 2001, through December 31, 2001, in violation of Section 84105.

COUNT 35: Respondents failed to send required notification to a contributor who contributed \$12,000 during the reporting period of January 1, 2002, through January 19, 2002, in violation of Section 84105.

COUNT 36: Respondents failed to timely send required notification to a contributor who contributed \$5,000 or more during the reporting period of January 20,

2002, through February 16, 2002, and failed to send the required notification to another contributor who contributed \$5,000 or more during the same reporting period, for a total of \$15,000, in violation of Section 84105.

COUNT 37: Respondents failed to timely send required notification to 42 contributors whom each contributed \$5,000 or more during the reporting period of February 17, 2002, through June 30, 2002, and failed to send the required notifications to two other contributors whom each contributed \$5,000 or more during the same reporting period, for a total of \$368,239, in violation of Section 84105.

COUNT 38: Respondents failed to timely send required notification to 32 contributors whom each contributed \$5,000 or more during the reporting period of July 1, 2002, through September 30, 2002, and failed to send the required notifications to another contributor who contributed \$5,000 or more during the same reporting period, for a total of \$292,198, in violation of Section 84105.

COUNT 39: Respondents failed to timely send required notification to four contributors whom each contributed \$5,000 or more during the reporting period of October 1, 2002, through October 19, 2002, for a total of \$20,000, in violation of Section 84105.

COUNT 40: Respondents failed to timely send required notification to eight contributors whom each contributed \$5,000 or more during the reporting period of October 20, 2002, through December 31, 2002, and failed to send the required notifications to two other contributors whom each contributed \$5,000 or more during the same reporting period, for a total of \$90,393 in violation of Section 84105.

LOAN DISCLOSURES

COUNT 41: In a semi-annual campaign statement filed on January 10, 2002, for the reporting period of October 1, 2001, through December 31, 2001, Respondents failed to properly disclose Deutsche Bank Trust Company Americas as the lender and the Simon Family Trust as the entity that pledged stock as security for a line of credit from which a loan of \$1,689,413.27 was made to Bill Simon for Governor, in violation of Section 84211, subdivisions (f), (g), (h).

COUNT 42: In a pre-election campaign statement filed on February 22, 2002, for the reporting period of January 20, 2002, through February 16, 2002, Respondents failed to properly disclose Deutsche Bank Trust Company Americas as the lender and the Simon Family Trust as the entity that

pledged stock as security for a line of credit from which three loans of \$293,351.50, \$638,382.28, and \$792,521.95, were made to Bill Simon for Governor, in violation of Section 84211, subdivisions (f), (g), (h).

COUNT 43: In a semi-annual campaign statement filed on July 31, 2002, for the reporting period of February 17, 2002, through June 30, 2002, Respondents failed to properly disclose Deutsche Bank Trust Company Americas as the lender and the Simon Family Trust as the entity that pledged stock as security for a line of credit from which a loan of \$1,000,000 was made to Bill Simon for Governor, in violation of Section 84211, subdivisions (f), (g), (h).

COUNT 44: In a pre-election campaign statement filed on October 7, 2002, for the reporting period of July 1, 2002 through September 30, 2002, Respondents failed to properly disclose Deutsche Bank Trust Company Americas as the lender and the Simon Family Trust as the entity that pledged stock as security for a line of credit from which a loan of \$4,000,000 was made to Bill Simon for Governor, in violation of Section 84211, subdivisions (f), (g), (h).

COUNT 45: In a semi-annual campaign statement filed on January 31, 2003, for the reporting period of October 20, 2002 through December 31, 2002, Respondents failed to properly disclose Deutsche Bank as the lender and the Simon Family Trust as the entity that pledged stock as security for a line of credit from which a loan of \$1,250,000 was made to Bill Simon for Governor, in violation of Section 84211, subdivisions (f), (g), (h).

SUMMARY OF LAW

The violations discussed below occurred in 2001 and 2002.² During those years, and continuing to the present, an express purpose of the Act has been to ensure that contributions and expenditures affecting election campaigns are fully and truthfully disclosed to the public, so that voters may be better informed, and improper practices may be inhibited. (Section 81002, subd. (a).) To that end, the Act sets forth a comprehensive campaign reporting system designed to accomplish this purpose of disclosure.

Duty to File Pre-election and Semi-Annual Campaign Statements.

At the core of the Act's campaign reporting system is the requirement set forth in Section 84200, subdivision (a), that a recipient committee file semi-annual campaign

² All statutory references and discussions of law pertain to the Act's provisions as they existed in 2001 and 2002.

statements each year no later than July 31 for the period ending June 30, and no later than January 31 for the period ending December 31.

In addition, as provided in Section 84200.5, subdivision (a), during an even-numbered year, all candidates for elective state office being voted on in the statewide direct primary election or in the statewide general election and their controlled committees are to file the applicable pre-election statements. More particularly, for an election being held in November of an even-numbered year, all candidates and their controlled committees are to file pre-election statements by no later than October 5 for the period ending September 30 and, no later than 12 days before the election for the period ending 17 days before the election. (Section 84200.7, subd. (b).)

Further, Section 84200.8, subdivision (b) provides that the first pre-election campaign statement, for the reporting period ending 45 days before the election, must be filed no later than 40 days before the election, and the second pre-election statement, for the reporting period ending 17 days before the election, must be filed no later than 12 days before the election.

Section 82013, subdivision (a) defines a “committee” as any person or combination of persons who directly or indirectly receives contributions totaling one thousand dollars (\$1,000) or more in a calendar year. This type of committee is commonly referred to as a “recipient committee.” In turn, Section 82016, subdivision (a), identifies a controlled committee as a committee controlled directly or indirectly by a candidate or state measure proponent, or a committee that acts jointly with a candidate, controlled committee, or state measure proponent in connection with the making of expenditures.

Duty to Disclose and Itemize Accrued Expenses on Campaign Statements.

Section 84211, subdivision (b), requires a committee to disclose in each of its campaign statements the total amount of expenditures made during the period covered by the campaign statement and the total cumulative amount of expenditures made. In addition, for each person to whom the committee makes an expenditure of \$100 or more during the period covered by the campaign statement, a committee must disclose information that includes the payee’s name and address, the amount of each expenditure, and a brief description of the consideration for which each expenditure is made. (84211, subds. (i), (k).)

“Expenditure” includes any individual payment or accrued expense (i.e., an unpaid bill). (Sections 82025, 84211, subd. (k)(6).) Further, an expenditure is “made” on the date the payment is made or on the date consideration, if any, is received, whichever is earlier. (Section 82025.) If consideration is received before payment is made, then the expenditure must be reported on the campaign statement as an accrued expense as of the date on which the goods or services are received. (Reg. 18421.6, subd. (b).)

Duty to Report Subvendor Expenditures.

Section 84303 provides that no expenditure shall be made, other than for overhead and normal operating expenses, by an agent or independent contractor, including, but not limited to, an advertising agency, on behalf of, or for the benefit of, any committee, unless the expenditure is reported by the committee as if the expenditure were made directly by the committee. This type of information reported by a committee is commonly referred to as “subvendor information.” Government Code section 84211, subdivision (k) (6) requires the disclosure of such subvendor information as part of the contents of any campaign statement required to be filed by the committee.

Duty to File Late Contribution Reports.

Under Section 84203, subdivision (a), when a committee makes or receives a late contribution, the committee must report the late contribution within 24 hours of making or receiving the contribution. Section 82036 defines a “late contribution” as a contribution aggregating \$1,000 or more that is received before an election, but after the closing date of the last pre-election campaign statement that is required to be filed by the committee before the election. Pursuant to Section 84200.8, subdivision (b), for an election held in March of an even-numbered year, the late contribution period covers the last sixteen days before the election. Similarly, pursuant to Section 84200.7, subdivision (b), for an election held in November of an even-numbered year, the late contribution period covers the last 16 days before the election.

Duty to Notify Contributors of \$5,000 or More.

When a committee receives cumulative contributions of \$5,000 or more from a contributor in a calendar year from a single source, Section 84105, as interpreted by regulation 18427.1, requires the committee to provide notice to the contributor that the contributor may qualify as a “major donor committee” and therefore have filing obligations under the Act. The notice must be in writing, and sent within two weeks of receiving \$5,000 or more. A contributor qualifies as a major donor committee by making contributions totaling \$10,000 or more in a calendar year. (Section 82013, subd. (c).) Under regulation 18427.1, a committee has no obligation to send a major donor notification letter to a contributor if the committee has previously sent a major donor notification letter to the contributor in the same calendar year.

Disclosure of Lenders and Persons Providing Loan Security.

If the cumulative amount of contributions received from a person is \$100 or more, and a contribution has been received from that person during the reporting period covered by a campaign statement, the statement must disclose the contributor’s full name and street address, his or her occupation and employer, the date and amount of each contribution received during the reporting period, and the cumulative amount of contributions. (Section 84211, subds. (f), (g).)

If the cumulative amount of loans received by a candidate or committee from a person is \$100 or more, a loan has been received from a person during the period covered by the campaign statement, or is outstanding during the period covered by the campaign statement, the campaign statement must disclose required information that includes the person's name and address and pertinent aspects of the loan such as the interest rate and due date. (Section 84211, subds. (f), (g).) Substantially similar information must also be disclosed for each person, other than the statement filer, who is directly, indirectly, or contingently liable for repayment of the loan received or outstanding during the period covered by the campaign statement. (Section 84211, subd. (h).)

Liability of Committee Treasurers.

As provided in Section 84100, every committee shall have a treasurer. Under Section 84100 and Regulation 18427, subdivision (a), it is the duty of a committee's treasurer to ensure that the committee complies with all of the requirements of the Act concerning the receipt and expenditure of funds and the reporting of such funds. Under Sections 83116.5 and 91006, a committee's treasurer may be held jointly and severally liable, along with the committee, for any reporting violations committed by the committee.

SUMMARY OF FACTS

Respondent Committee is a recipient, candidate-controlled committee formed in February 2001 to support Respondent Simon's candidacy for Governor in the 2002 primary and general elections. Respondent Committee was controlled by Respondent. Further, at all times relevant to this action, Respondent Turner was Respondent Committee's treasurer.

During the period covered by the FTB audit, Respondent Committee reported receiving contributions of \$36,364,669 and making expenditures totaling \$36,469,876.

Counts 1-9

(Failure to File and Timely File Late Contribution Reports)

Under Section 84203, subdivision (a), Respondents were required to file late contribution reports disclosing, within 24 hours of receiving it, any contribution cumulating \$1,000 more during the late reporting period. The late reporting period for the March 2002 Primary Election was February 17, 2002, through March 4, 2002. The late reporting period for the November 2002 General Election was October 20, 2002, through November 4, 2002.

Respondents failed to timely disclose seven late contributions in properly filed late contribution reports. In addition, Respondents failed to disclose twenty late

contributions in properly filed late contribution reports. The subject late contributions are shown in the following table, according to the count to which they correspond.

Count	Contributor	Date Received	LCR Due Date	LCR Filed	Amount
1	Sammy Reeder	2/19/2002	2/20/2002	3/7/2002	\$ 1,000.00
2	D/T Carson Enterprises	10/21/2002 10/22/2002	10/23/2002	Not filed.	\$ 800.00 \$ 800.00
3	D/T Carson Enterprises Katherine Herbert Alden	10/23/2002 10/24/2002 10/24/2002	10/25/2002 10/25/2002	Not filed. Not filed.	\$ 800.00 \$ 800.00 \$5,000.00
4	D/T Carson Enterprises	10/25/2002 10/26/2002	10/27/2002	Not filed.	\$ 800.00 \$ 800.00
5	D/T Carson Enterprises Lorene Milligan Mendocino County Republican Central Committee Race Investments, LLC	10/27/2002 10/28/2002 10/28/2002 10/28/2002 10/28/2002	10/29/2002 10/29/2002 10/29/2002 10/29/2002	Not filed. Not filed. Not filed. Not filed.	\$ 800.00 \$ 800.00 \$ 1,000.00 \$ 1,236.80 \$ 5,000.00 \$11,067.00
6	D/T Carson Enterprises Spencer Enterprises, Inc.	10/29/2002 10/30/2002 10/30/2002	10/31/2002 10/31/2002	Not filed. 12/6/2002	\$ 800.00 \$ 800.00 \$ 1,758.76
7	Richard Clauss Spencer Enterprises, Inc. Edward Williams Johan A. Gunn Russell E. Leatherby	10/31/2002 10/31/2002 10/31/2002 10/31/2002 10/31/2002	11/1/2002 11/1/2002 11/1/2002 11/1/2002	Not filed. 12/6/2002 11/6/2002 11/6/2002 11/6./2002	\$ 1,000.00 \$ 4,061.70 \$ 6,000.00 \$ 5,000.00 \$ 5,000.00
8	D/T Carson Enterprises	10/31/2002 11/1/2002	11/2/2002	Not filed.	\$ 800.00 \$ 800.00
9	D/T Carson Enterprises	11/2/2002 11/3/2002	11/4/2002	Not filed.	\$ 800.00 \$ 800.00

Count	Contributor	Date Received	LCR Due Date	LCR Filed	Amount
					<u>TOTAL:</u> \$58,324.26

By failing to properly disclose late contributions in properly filed late contribution reports, as set forth above, Respondents committed 9 violations of Section 84203, subdivision (a).

Counts 10 – 23
(Failure to Timely Disclose Subvendor Information)

Under Section 84211, subdivision (k)(6) and Section 84303, Respondents had a duty to disclose any expenditure of \$500 or more made by an agent or independent contractor (i.e., subvendor), including any advertising agency or broadcast advertising entities, on behalf of or for the benefit of Respondent Committee, as if Respondent Committee had made the expenditure itself.

Respondent Committee made payments to Russo Marsh & Associates for media advertising in numerous California market areas for which Respondents failed to report the required subvendor information on Respondent Committee's semi-annual campaign statement filed on July 31, 2002, for the February 17 through June 30, 2002, reporting period and on Respondent Committee's pre-election campaign statement filed on October 7, 2002, for the July 1 through September 30, 2002, reporting period. The following tables identify the 14 subvendors whom Russo Marsh & Associates paid.

Amendments were filed after the General Election on May 12, 2003, for the period ending June 30, 2002, and on June 4, 2003, for the period ending September 30, 2002, to disclose the subvendor information.

<u>Feb. 17 – June 30, 2002</u>		<u>July 1 – Sept. 30, 2002</u>	
KABC-TV	\$196,626	AT & T Media	\$429,356
KCBS-TV	\$117,623	Adlink	\$368,790
KGO-TV	\$121,066	KABC-TV	\$257,040
KNBC-TV	\$261,163	KCBS-TV	\$111,371
Spectrum	\$137,868	KCRA-TV	\$124,440
Film Productions		KNBC-TV	\$202,572
		KNTV-TV	\$102,595
		KPIX-TV	\$107,708
		National Cable	\$266,781
<u>TOTAL:</u>	\$834,346	<u>TOTAL:</u>	\$1,970,653

By failing to timely report required information regarding the above-described subvendor payments, Respondents committed 14 violations of Sections 84211, subdivision (k) and Section 84303.

Counts 24-33
(Failure to Disclose and Timely Disclose Accrued Expenses)

Section 84211, subdivision (b), requires a committee to disclose in each of its campaign statements the total amount of expenditures made during the period covered by the campaign statement and the total cumulative amount of expenditures made. In addition, for each person to whom the committee makes an expenditure of \$100 or more during the period covered by the campaign statement, a committee is required to disclose information that included the payee's name and address, the amount of each expenditure, and a brief description of the consideration for which each expenditure is made. (Section 84211, subds. (i), (k).)

Respondents failed to properly report accrued expenditures totaling \$1,090,958. More particularly, as shown in the table below, Respondents did not timely report \$499,874 and failed to report \$591,084.

Count	Reporting Period	Reporting Status	Campaign Statement Due Date	Amount
24	7/1/2001- 9/30/ 2001	Not Reported	10/10/2001	\$ 8,899
25	10/1/2001 - 12/31/2001	Not Reported	01/10/2002	\$ 64,415
26	1/1/2002 - 1/19/2002	Not Reported	1/24/2002	\$ 25,048
27	1/20/2002-2/16/2002	Not Reported	2/21/2002	\$ 241,910
28	1/20/2002 - 2/16/2002	Late Reported	2/21/2002	\$ 122,200
29	2/17/2002 – 6/30/2002	Not Reported	7/31/2002	\$ 86,887
30	7/1/2002 – 9/30/2002	Not Reported	10/7/2002	\$ 55,455
31	10/1/2002 – 10/19/2002	Not Reported	10/24/2002	\$ 102,634
32	10/1/2002-10/19/2002	Late Reported	10/24/2002	\$ 377,674
33	10/20/2002 – 12/31/2002	Not Reported	1/31/2003	\$ 5,836
				<u>TOTAL:</u> \$1,090,958

By failing to properly disclose accrued expenses during the above-identified reporting periods, Respondents committed 10 violations of Section 84211, subdivisions (i) and (k).

Counts 34-40
(Failure to Send and Timely Send Major Donor Notifications)

Within two weeks of receiving contributions of \$5,000 or more, Respondents were required to provide notice to the contributor that the contributor may be required to file campaign statements as a major donor committee. (Section 84105.) During the reporting periods identified in the table below, Respondents (1) failed to send major donor notification letters to seven contributors, whose combined contributions totaled approximately \$76,500 and (2) did not timely send major donor notifications to 88 contributors whose combined contributions totaled approximately \$726,330. The table below identifies the reporting periods for which Respondents failed to send and timely send major donor notifications.

Counts	Reporting Period	Contributors	Sent Late	Not Sent	Amount
34	10/1/2001 – 12/31/2001	1	1	-----	\$ 5,000
35	1/1/2002 – 1/19/2002	1	-----	1	\$ 12,000
36	1/20/2002 – 2/16/2002	2	1	1	\$ 15,000
37	2/17/2002 – 6/30/2002	44	42	2	\$ 368,239
38	7/1/2002 – 9/30/2002	33	32	1	\$ 292,198
39	10/1/2002 - 10/19/2002	4	4	-----	\$ 20,000
40	10/20/2002 – 12/31/2002	10	8	2	\$ 90,393
		<u>TOTAL: 95</u>	<u>TOTAL: 88</u>	<u>TOTAL:7</u>	<u>TOTAL: \$ 802,830</u>

By failing to send major donor notifications to seven contributors that contributed \$5,000 or more and by sending late notifications to 88 contributors that contributed \$5,000 or more, over the course of seven reporting periods, Respondent committed seven violations of Section 84105.

Counts 41-45
(Failure to Properly Disclose Loan Information)

Respondents were required to disclose the lender of seven loans received in excess of \$100. (Section 84211, subs. (f), (g), (h).) Respondent Committee received the loans from a line of credit from Deutsche Bank Trust Company Americas, a long-standing line of credit which was established for the Simon Family Trust, of which William E. Simon, Jr., is one of the beneficiaries, (“Deutsche Bank”) via Respondent Simon’s personal bank account, totaling \$9,663,669. The line of credit made available to

Respondent Simon based on stock pledged by the Simon Family Trust. On the campaign statements for the reporting periods in which the loans were received, Respondents were required to disclose Deutsche Bank as the lender and the Simon Family Trust as the entity that pledged stock as security for the line of credit. Instead, Respondents identified Respondent Simon as the lender. The table below more particularly identifies the subject loans and the loan amounts.

Counts	Reporting Period	Loan Date	Amount
41	10/1/2001 – 12/ 31/2001	12/28/2001	\$ 1,689,413.27
42	1/ 20/2002 – 2/16/2002	2/1/2002	\$ 293,351.50
		2/4/2002	\$ 638,382.28
		2/8/2002	\$ 792,521.95
43	2/17/2002 – 6/30/2002	2/20/2002	\$ 1,000,000.00
44	7/1/2002 – 9/30/2002	9/17/2002	\$ 4,000,000.00
45	10/20/2002 – 12/31/2002	10/23/2002	\$ 1,250,000.00
			<u>TOTAL: \$9,663,669</u>

By failing to disclose Deutsche Bank as the lender and the Simon Family Trust as the entity that pledged stock as security for the line of credit from which the seven loans were made to Respondent Committee over the course of five reporting periods, Respondents committed five violations of Section 84211, subdivisions (f),(g), and (h).

CONCLUSION

This matter consists of 45 counts of violating the Act, which carry a maximum administrative penalty of \$5,000 per violation, for a total of \$ 225,000.

This matter involves a large number of campaign reporting violations, although the actual number of violations is small relative to the Respondent Committee's overall size and the amounts of its reported contributions and expenditures. The public harm inherent in these types of violations, where pertinent information is not disclosed before an election, is that the public is deprived of important information such as the sources and amounts of contributions to a campaign and the amounts expended by the campaign.

However, it is important to note that Respondents substantially complied with the Act's disclosure reporting requirements in almost all respects. First, approximately 99% of the total dollars involved in the late contributions were timely or accurately reported. Second, Respondents reported expenditures of \$36,469,876, virtually all of which were timely and accurately reported. This was one of the largest dollar amounts for a single campaign committee for a candidate for statewide office to date. Third, by filing several amendments to their campaign statements on their own initiative, to include previously unreported information or to correct previously reported information, Respondents have shown good faith and diligence in attempting to comply with the Act's requirements.

Regarding the late contribution reports, Counts 1 – 9, the typical administrative penalty for failing to report a late contribution has historically resulted in penalties

ranging from the mid to high range of the available penalties, depending on the facts and circumstances of each case, including the presence of aggravating factors such as the amount of money not reported and whether the violations resulted from negligent or intentional conduct. In this matter, Respondents failed to report nearly \$60,000 prior to the Primary or General Election. However, Respondents did timely file late contribution reports for approximately 391 other contributions received totaling about \$3,890,616. In light of these factors and a number of pre-election violations discussed above in the Summary of Facts, the facts of this case warrant an administrative penalty at the lower end of the historical penalty range, for a penalty of \$1,000 per count for the counts (Counts 1, 2, 4, 8, 9) where the dollar amount was less than \$2,000 and a penalty of \$2,250 per count for the counts (Counts 3, 5, 6, 7) where the dollar amount was \$2,000 or more.

Regarding subvendor disclosure, Counts 10-23, the typical administrative penalty has historically resulted in penalties ranging from the mid-to high-range of the available penalties, depending on the total dollar amount not reported and whether the information should have been reported on a pre-election or post-election campaign statement. In this case the total dollar amount not timely reported is significant, all of which should have reported *before* the election. However, even though Respondents had in place a system to collect and report such expenditures, the principal vendor did not timely provide this subvendor information to enable the Respondents to timely report it, despite their repeated efforts to obtain the information. In light of these factors and number of pre-election violations discussed above in the Summary of Fact, the facts of this case warrant an administrative penalty near the high end of the historical penalty range, for a penalty of \$3,500 per count.

Regarding disclosure of accrued expenses, Counts 24-33, the typical administrative penalty has varied based on the circumstances of the violation, such as the total dollar amount not reported and whether the information should have been reported on a pre-election or post-election campaign statement. In this case, respondents understated approximately \$1,000,000 in accrued expenses over the course of eight reporting periods, all of which pertained to pre-election disclosures. Accordingly, the circumstances of these violations warrant an administrative penalty near the high end of the historical penalty range, for a penalty of \$3,000 per count.

Regarding major donor notifications, Counts 34-40, the typical administrative penalty for failing to notify contributors of \$5,000 or more that they may have filing obligations has historically resulted in penalties ranged from the mid to high range of the available penalties per violation. The seven contributors that did not receive notices and the 88 contributors that received late notices contributed less than 5% of the total contributions reported as received by Respondents during the audit period. Moreover, most of these contributors had Secretary of State-issued major donor identification numbers and thus knew, or should have known of their own obligation to report the contributions. Thus, the facts and circumstances of these violations warrant an

administrative penalty at the lower end of the historical penalty range, for a penalty of \$2,000 per count.

Regarding the loan disclosures, Counts 41-45, the typical administrative penalty for failing to disclose lender information and information pertaining to others such as guarantors, contingently liable persons, and others who have pledged loan security, has been near or at the maximum available penalty, depending on the facts and circumstances of each case. Here, for seven loans that totaled approximately \$9,663,669, Respondents disclosed Respondent Simon as a lender on these loans, but failed to disclose Deutsche Bank as the lender and the Simon Family Trust as the entity that pledged stock as security for the line of credit from which the seven loans were made to Respondent Committee. The bank line of credit which was the source of the loans was a long-standing line of credit arrangement for the benefit of the Simon Family Trust, of which Respondent Simon was one of the beneficiaries. Thus, the facts and circumstances of these violations warrant an administrative penalty near the maximum available penalty, for a penalty of \$3,600 per count.

Respondents cooperated fully with both FTB and the Enforcement Division during the FTB audit of Respondent Committee and the Enforcement Division proceedings. There was no evidence that the violations herein were anything other than negligent or inadvertent. There was no evidence that the violations were deliberate or intentional.

Based on the foregoing facts and circumstances, a penalty in the agreed upon amount of \$125,000 is justified.